

SENATE BILL 787

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2004 Regular Session  
4r2331  
CF 4r2330

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By: **Senators Hogan and McFadden (Task Force to Study Public School Facilities)**

Introduced and read first time: February 16, 2004

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Public School Facilities Act of 2004**

3 FOR the purpose of authorizing counties to finance the construction or renovation of  
4 public school facilities, under certain circumstances, using alternative financing  
5 methods, engaging in competitive negotiation, accepting unsolicited proposals,  
6 and using quality based selection; authorizing a private entity to hold title to  
7 property used for a certain public school or school system under certain  
8 circumstances; expressing the intent of the General Assembly that the State  
9 Department of Education and the Public School Construction Program  
10 encourage local education agencies to use recently used school designs under  
11 certain circumstances; requiring the Interagency Committee on School  
12 Construction to survey the condition of certain school buildings; requiring the  
13 Department of General Services to conduct certain inspections; requiring the  
14 Interagency Committee to make a certain annual report to the Governor and the  
15 General Assembly; requiring the Department of General Services to submit a  
16 certain annual report to the State Department of Education and local education  
17 agencies; authorizing certain counties to issue certain bonds under certain  
18 circumstances; providing for the issuance and administration of the bonds;  
19 providing for the repayment of the bonds; authorizing certain counties to impose  
20 a sales tax on certain retail sales, subject to certain limits; authorizing certain  
21 counties to impose a certain transfer tax on certain instruments, subject to  
22 certain limits; repealing a certain exemption from the Administrative Procedure  
23 Act; altering the amount of grants provided to counties under the Aging Schools  
24 Program; providing an exception to a certain mandatory level of State funds to  
25 be granted to Prince George's County and Baltimore City; expressing the intent  
26 of the General Assembly that the Board of Public Works establish an emergency  
27 repair fund to be used to finance certain renovations and improvements to  
28 public schools; specifying that the purchase of relocatable classrooms are eligible  
29 for State funding; requiring the Public School Construction Program to provide  
30 assistance to Baltimore City, counties, and local education agencies in using  
31 alternative financing mechanisms; requiring the State Department of Education  
32 to adopt certain regulations; requiring the Board of Public Works to adopt  
33 certain regulations; defining certain terms; providing for the effective dates of  
34 this Act; and generally relating to the funding and administration of public

1 school construction.

2 BY repealing and reenacting, with amendments,  
3 Article - Education  
4 Section 4-114, 5-206(f), 5-301, and 5-302  
5 Annotated Code of Maryland  
6 (2001 Replacement Volume and 2003 Supplement)

7 BY adding to  
8 Article - Education  
9 Section 4-126 and 5-309 through 5-311; and 5-601 through 5-604, inclusive, to  
10 be under the new subtitle "Subtitle 6. Authorization to Issue Bonds to  
11 Fund Public School Construction"  
12 Annotated Code of Maryland  
13 (2001 Replacement Volume and 2003 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Tax - General  
16 Section 11-102(b)  
17 Annotated Code of Maryland  
18 (1997 Replacement Volume and 2003 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Chapter 704 of the Acts of the General Assembly of 1998, as amended by  
21 Chapter 420 of the Acts of the General Assembly of 2001 and Chapter 289  
22 of the Acts of the General Assembly of 2002  
23 Section 3

24 BY repealing and reenacting, with amendments,  
25 Chapter 280 of the Acts of the General Assembly of 2001, as amended by  
26 Chapter 288 of the Acts of the General Assembly of 2002 and Chapter 388  
27 of the Acts of the General Assembly of 2003  
28 Section 1

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
30 MARYLAND, That the Laws of Maryland read as follows:

31 **Article - Education**

32 4-114.

33 (a) All property granted, conveyed, devised, or bequeathed for the use of a  
34 particular public school or school system:

1 (1) [Shall] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,  
2 SHALL be held in trust for the benefit of the school or school system by the  
3 appropriate county board; and

4 (2) Is exempt from all State and local taxes.

5 (b) Money invested in trust for the benefit of the public schools for any county  
6 or city is exempt from all State and local taxes.

7 (C) A PRIVATE ENTITY MAY HOLD TITLE TO PROPERTY USED FOR A  
8 PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM IF THE PRIVATE ENTITY IS  
9 CONTRACTUALLY OBLIGATED TO TRANSFER TITLE TO THE APPROPRIATE COUNTY  
10 BOARD ON A SPECIFIED DATE.

11 4-126.

12 (A) IN THIS SECTION, "ALTERNATIVE FINANCING METHODS" INCLUDES:

13 (1) SALE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY BOARD  
14 AGREES TO TRANSFER TITLE TO A PROPERTY, INCLUDING IMPROVEMENTS, TO A  
15 PRIVATE ENTITY THAT SIMULTANEOUSLY AGREES TO LEASE THE PROPERTY BACK  
16 TO THE COUNTY BOARD AND, ON A SPECIFIED DATE, TRANSFER TITLE BACK TO THE  
17 COUNTY BOARD;

18 (2) LEASE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY BOARD  
19 LEASES A PROPERTY TO A PRIVATE ENTITY THAT IMPROVES THE PROPERTY AND  
20 LEASES THE PROPERTY, WITH THE IMPROVEMENTS, BACK TO THE COUNTY BOARD;

21 (3) PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, IN WHICH A COUNTY  
22 BOARD CONTRACTS WITH A PRIVATE ENTITY FOR THE ACQUISITION, DESIGN,  
23 CONSTRUCTION, IMPROVEMENT, RENOVATION, EXPANSION, EQUIPPING, OR  
24 FINANCING OF A PUBLIC SCHOOL, AND MAY INCLUDE PROVISIONS FOR  
25 COOPERATIVE USE OF THE SCHOOL OR AN ADJACENT PROPERTY AND GENERATION  
26 OF REVENUE TO OFFSET THE COST OF CONSTRUCTION OR USE OF THE SCHOOL; AND

27 (4) PERFORMANCE-BASED CONTRACTING, IN WHICH A COUNTY BOARD  
28 ENTERS INTO AN ENERGY PERFORMANCE CONTRACT TO OBTAIN FUNDING FOR A  
29 PROJECT WITH GUARANTEED ENERGY SAVINGS OVER A SPECIFIED TIME PERIOD.

30 (B) EXCEPT WHEN PROHIBITED BY LOCAL LAW, IN ORDER TO FINANCE  
31 PUBLIC SCHOOL CONSTRUCTION, A COUNTY MAY:

32 (1) USE ALTERNATIVE FINANCING METHODS;

33 (2) ENGAGE IN COMPETITIVE NEGOTIATION, RATHER THAN  
34 COMPETITIVE BIDDING, IN LIMITED CIRCUMSTANCES, AS PROVIDED IN  
35 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS;

1 (3) ACCEPT UNSOLICITED PROPOSALS FOR THE DEVELOPMENT OF  
2 PUBLIC SCHOOLS IN LIMITED CIRCUMSTANCES, AS PROVIDED IN REGULATIONS  
3 ADOPTED BY THE BOARD OF PUBLIC WORKS; AND

4 (4) USE QUALITY-BASED SELECTION, IN WHICH SELECTION IS BASED  
5 ON A COMBINATION OF QUALIFICATIONS AND COST FACTORS, TO SELECT  
6 DEVELOPERS AND BUILDERS, AS PROVIDED IN REGULATIONS ADOPTED BY THE  
7 BOARD OF PUBLIC WORKS.

8 (C) AT THE REQUEST OF THE INTERAGENCY COMMITTEE ON SCHOOL  
9 CONSTRUCTION, THE BOARD OF PUBLIC WORKS MAY ADOPT REGULATIONS TO  
10 IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING:

11 (1) GUIDELINES FOR THE ACCEPTANCE AND EVALUATION OF  
12 UNSOLICITED PROPOSALS;

13 (2) REQUIREMENTS FOR THE EXECUTION OF A COMPREHENSIVE  
14 AGREEMENT GOVERNING AN ARRANGEMENT AUTHORIZED UNDER THIS SECTION;  
15 AND

16 (3) THE APPLICABILITY OF STATE PROCUREMENT LAWS TO  
17 PROCUREMENT OR FINANCING OF PUBLIC SCHOOL CONSTRUCTION AUTHORIZED  
18 UNDER THIS SECTION.

19 5-302.

20 (a) (1) The BOARD OF PUBLIC WORKS SHALL ESTABLISH THE Interagency  
21 Committee on School Construction [established by the Board of Public Works is] AS  
22 a unit within the Department for administrative and budgetary purposes.

23 (2) THE INTERAGENCY COMMITTEE CONSISTS OF THE FOLLOWING  
24 MEMBERS:

25 (I) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE  
26 SUPERINTENDENT'S DESIGNEE;

27 (II) THE SECRETARY OF THE DEPARTMENT OF PLANNING, OR THE  
28 SECRETARY'S DESIGNEE; AND

29 (III) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S  
30 DESIGNEE.

31 (3) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE  
32 SUPERINTENDENT'S DESIGNEE, SHALL BE THE CHAIRMAN OF THE INTERAGENCY  
33 COMMITTEE.

34 (b) (1) The Department or any other State agency may lend its employees to  
35 serve as the staff for the Interagency Committee.

36 (2) These employees shall be paid by the agency that employs them.

1 (c) The Executive Director of the Interagency Committee shall be appointed  
2 by the Interagency Committee with the approval of the Board of Public Works.

3 (d) (1) (I) The Interagency Committee [on School Construction] shall  
4 prepare projections of school construction and capital improvement needs for  
5 submission to the Capital Debt Affordability Committee under § 8-112(c)(3) of the  
6 State Finance and Procurement Article.

7 (II) The projections shall be prepared in accordance with the [rules,  
8 regulations, and procedures] REGULATIONS adopted by the Board under § 5-301 of  
9 this subtitle.

10 (2) (I) The Board of Public Works or the Interagency Committee [on  
11 School Construction] shall notify each county board and each local governing body of  
12 the annual allocation of school construction funds recommended to the Board of  
13 Public Works by the Governor under the consolidated capital debt program of the  
14 State Finance and Procurement Article.

15 (II) The notification shall be made immediately after the Governor  
16 has recommended the allocations so that each county may structure its respective  
17 school construction and capital improvement priorities in accordance with the annual  
18 allocation and any amendments.

19 (E) (1) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE INTERAGENCY  
20 COMMITTEE SHALL PROVIDE RECOMMENDATIONS TO THE BOARD OF PUBLIC WORKS  
21 FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS THAT COMPRISE AT LEAST 75% OF  
22 THE ANTICIPATED SCHOOL CONSTRUCTION ALLOCATION FOR THE FOLLOWING  
23 FISCAL YEAR.

24 (2) THE REMAINING PUBLIC SCHOOL CONSTRUCTION ALLOCATION FOR  
25 THE FOLLOWING FISCAL YEAR MAY BE ALLOCATED BY THE BOARD OF PUBLIC  
26 WORKS AS PROVIDED IN REGULATION.

27 5-309.

28 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT AND  
29 THE PUBLIC SCHOOL CONSTRUCTION PROGRAM ENCOURAGE LOCAL EDUCATION  
30 AGENCIES TO REUSE RECENTLY USED SCHOOL DESIGNS, WHEN EDUCATIONALLY  
31 APPROPRIATE AND COST EFFECTIVE OVER THE USEFUL LIFE OF THE PROJECT,  
32 WITHIN EACH COUNTY AND ACROSS LOCAL SCHOOL SYSTEM BOUNDARIES.

33 5-310.

34 (A) EACH FISCAL YEAR, THE INTERAGENCY COMMITTEE SHALL SURVEY THE  
35 CONDITION OF SCHOOL BUILDINGS IDENTIFIED BY THE DEPARTMENT.

36 (B) THE DEPARTMENT OF GENERAL SERVICES SHALL CONDUCT THE  
37 INSPECTIONS OF INDIVIDUAL SCHOOL BUILDINGS THAT THE INTERAGENCY  
38 COMMITTEE REQUIRES TO COMPLETE THE SURVEY REQUIRED IN SUBSECTION (A) OF  
39 THIS SECTION.

1 (C) THE INTERAGENCY COMMITTEE SHALL REPORT TO THE GOVERNOR AND  
2 THE GENERAL ASSEMBLY, ON OR BEFORE OCTOBER 1 OF EACH YEAR, IN  
3 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE  
4 RESULTS OF THE SURVEY FOR THE PRIOR FISCAL YEAR.

5 5-311.

6 ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT OF GENERAL  
7 SERVICES SHALL PROVIDE A REPORT TO THE DEPARTMENT AND EACH LOCAL  
8 EDUCATION AGENCY THAT DESCRIBES EXISTING STATE PURCHASING CONTRACTS  
9 THAT LOCAL EDUCATION AGENCIES MAY USE TO PURCHASE SCHOOL FURNITURE,  
10 EQUIPMENT, COMMODITIES, AND SERVICES.

11 SUBTITLE 6. AUTHORIZATION TO ISSUE BONDS TO FUND PUBLIC SCHOOL  
12 CONSTRUCTION.

13 5-601.

14 EXCEPT AS PROVIDED IN § 5-603(B) AND (C) OF THIS SUBTITLE, THE PROVISIONS  
15 OF THIS SUBTITLE DO NOT APPLY TO A COUNTY OTHERWISE AUTHORIZED TO ISSUE  
16 BONDS TO FUND PUBLIC SCHOOL CONSTRUCTION UNDER OTHER PROVISIONS OF  
17 THE CODE.

18 5-602.

19 (A) IN THIS SUBTITLE, "CONSTRUCTION OR IMPROVEMENT" MEANS THE  
20 PLANNING, DESIGN, ENGINEERING, ALTERATION, CONSTRUCTION,  
21 RECONSTRUCTION, ENLARGEMENT, EXPANSION, EXTENSION, IMPROVEMENT,  
22 REPLACEMENT, REHABILITATION, RENOVATION, UPGRADING, REPAIR, OR CAPITAL  
23 EQUIPPING.

24 (B) A COUNTY MAY ISSUE BONDS TO FINANCE ANY OR ALL OF THE COSTS OF  
25 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOLS IN THE COUNTY.

26 (C) (1) BONDS SHALL BE AUTHORIZED BY A RESOLUTION OF THE  
27 GOVERNING BODY OF THE COUNTY.

28 (2) THE RESOLUTION SHALL:

29 (I) GENERALLY DESCRIBE THE PUBLIC SCHOOL CONSTRUCTION  
30 OR IMPROVEMENTS TO BE FINANCED THROUGH THE SALE OF THE BONDS;

31 (II) STATE THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS;

32 (III) DESCRIBE THE SOURCES OF REPAYMENT OF THE BONDS;

33 (IV) STATE THE MAXIMUM TERM OF THE BONDS, WHICH MAY NOT  
34 EXCEED 30 YEARS; AND

1 (V) DESCRIBE ANY TERMS OR CONDITIONS UNDER WHICH THE  
2 BONDS MAY BE REDEEMED BEFORE MATURITY.

3 (D) THE BONDS SHALL:

4 (1) BE DATED AND BEAR INTEREST AT A RATE SPECIFIED IN THE  
5 RESOLUTION;

6 (2) MATURE WITHIN 30 YEARS OF THE DATE OF ISSUANCE OF THE  
7 BONDS;

8 (3) BE ISSUED AT, ABOVE, OR BELOW PAR VALUE, FOR CASH OR OTHER  
9 CONSIDERATION;

10 (4) BE PAYABLE AT A TIME, IN THE DENOMINATION, IN REGISTERED  
11 FORM, WITHIN THE MEANING OF ARTICLE 31, § 30 OF THE CODE, AS SPECIFIED IN  
12 THE RESOLUTION;

13 (5) CARRY THE REGISTRATION AND PRIVILEGES AS TO CONVERSION  
14 AND FOR THE REPLACEMENT OF MUTILATED, LOST, OR DESTROYED BONDS, AS  
15 SPECIFIED IN THE RESOLUTION;

16 (6) BE PAYABLE IN LAWFUL MONEY OF THE UNITED STATES OF  
17 AMERICA AT A DESIGNATED PLACE;

18 (7) BE SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED IN THE  
19 RESOLUTION; AND

20 (8) BE SOLD IN THE MANNER, INCLUDING PRIVATE OR NEGOTIATED  
21 SALE, AND UPON THE TERMS, SPECIFIED IN THE RESOLUTION.

22 (E) THE COUNTY MAY ENTER INTO AGREEMENTS WITH AGENTS, BANKS,  
23 FIDUCIARIES, INSURERS, OR OTHERS TO:

24 (1) ENHANCE THE MARKETABILITY OF AND SECURITY FOR THE BONDS;  
25 OR

26 (2) SECURE ANY TENDER OPTION GRANTED TO THE HOLDERS OF THE  
27 BONDS.

28 (F) IF ANY OFFICER WHOSE SIGNATURE APPEARS ON A BOND CEASES TO BE  
29 AN OFFICER BEFORE DELIVERY OF THE BONDS, THE SIGNATURE IS VALID AND  
30 SUFFICIENT FOR ALL PURPOSES.

31 (G) THE BONDS, THEIR ISSUE, AND THEIR SALE MAY BE EXEMPT FROM THE  
32 PROVISIONS OF SECTIONS 9, 10, AND 11 OF ARTICLE 31 OF THE CODE.

33 (H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE  
34 NET PROCEEDS OF THE SALE OF THE BONDS MAY ONLY BE APPLIED TO THE  
35 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOL FACILITIES, AS DESCRIBED  
36 IN THE RESOLUTION AUTHORIZING THE ISSUANCE OF THE BONDS.

1 (2) IF THE NET PROCEEDS OF THE SALE OF ANY BONDS EXCEEDS THE  
2 AMOUNT NEEDED FOR THE CONSTRUCTION OR IMPROVEMENT OF THE PUBLIC  
3 SCHOOL FACILITIES, AS DESCRIBED IN THE RESOLUTION, THE EXCESS FUNDS SHALL  
4 BE APPLIED TO:

5 (I) THE PAYMENT OF INTEREST ON THE BONDS;

6 (II) THE PAYMENT OF THE NEXT PRINCIPAL MATURITY OF THE  
7 BONDS;

8 (III) THE REDEMPTION OF ANY PART OF THE BONDS THAT ARE  
9 REDEEMABLE BEFORE MATURITY; OR

10 (IV) IF AUTHORIZED BY A RESOLUTION ISSUED BY THE GOVERNING  
11 BODY OF THE COUNTY, THE CONSTRUCTION OR IMPROVEMENT OF OTHER PUBLIC  
12 SCHOOL FACILITIES.

13 (I) BONDS ISSUED UNDER THIS SUBTITLE ARE NEGOTIABLE INSTRUMENTS  
14 UNDER THE LAWS OF THIS STATE.

15 (J) BEFORE THE PREPARATION OF BONDS, THE COUNTY MAY ISSUE BOND  
16 ANTICIPATION NOTES IN ACCORDANCE WITH ARTICLE 31, § 12 OF THE CODE.

17 5-603.

18 (A) BONDS ISSUED UNDER THIS SUBTITLE CONSTITUTE AN IRREVOCABLE  
19 PLEDGE OF THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE  
20 COUNTY TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS  
21 WHEN THE BONDS BECOME PAYABLE.

22 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE  
23 GOVERNING BODY OF A COUNTY MAY IMPOSE A TRANSFER TAX ON AN INSTRUMENT  
24 OF WRITING, AS DEFINED IN § 13-101(C) OF THE TAX - PROPERTY ARTICLE:

25 (I) RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR THE  
26 COUNTY; OR

27 (II) FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND  
28 TAXATION.

29 (2) A TRANSFER TAX IMPOSED UNDER THIS SUBSECTION:

30 (I) MAY NOT EXCEED THE AMOUNT REQUIRED TO MAKE  
31 PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO  
32 FUND PUBLIC SCHOOL CONSTRUCTION; AND

33 (II) DOES NOT APPLY TO AN INSTRUMENT OF WRITING EXEMPT  
34 FROM THE STATE TRANSFER TAX UNDER § 13-207 OF THE TAX - PROPERTY ARTICLE.

35 (3) THIS SUBSECTION DOES NOT APPLY TO A COUNTY OTHERWISE  
36 AUTHORIZED TO IMPOSE A TRANSFER TAX ON JUNE 30, 2004.

1 (C) (1) IN THIS SUBSECTION, "RETAIL SALE", "SALE", AND "TAXABLE PRICE"  
2 HAVE THE MEANINGS STATED IN § 11-101 OF THE TAX - GENERAL ARTICLE.

3 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE  
4 GOVERNING BODY OF A COUNTY MAY IMPOSE, BY ORDINANCE, AND COLLECT A  
5 SALES TAX ON A RETAIL SALE WITHIN THE COUNTY.

6 (3) A TAX IMPOSED UNDER THIS SECTION DOES NOT APPLY TO A SALE  
7 THAT IS EXEMPT FROM THE STATE SALES AND USE TAX UNDER TITLE 11 OF THE TAX  
8 - GENERAL ARTICLE.

9 (4) A TAX IMPOSED UNDER THIS SECTION MAY NOT EXCEED THE  
10 AMOUNT REQUIRED TO MAKE PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND  
11 INTEREST ON BONDS ISSUED TO FUND PUBLIC SCHOOL CONSTRUCTION.

12 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN  
13 EVERY FISCAL YEAR IN WHICH ANY OF THE BONDS ARE OUTSTANDING, THE COUNTY  
14 SHALL LEVY AD VALOREM TAXES ON ALL ASSESSABLE PROPERTY WITHIN THE  
15 CORPORATE LIMITS OF THE COUNTY IN AN AMOUNT SUFFICIENT TO MAKE  
16 PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON THE BONDS.

17 (2) IF OTHER FUNDS ARE AVAILABLE TO PAY THE PRINCIPAL OF AND  
18 INTEREST ON THE BONDS, THE COUNTY MAY REDUCE THE TAXES THAT WOULD  
19 OTHERWISE NEED TO BE LEVIED UNDER THIS SECTION.

20 (E) THE COUNTY MAY APPLY FUNDS RECEIVED FROM ANY SOURCE TO THE  
21 PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.

22 5-604.

23 BONDS ISSUED UNDER THIS SUBTITLE ARE EXEMPT FROM STATE, COUNTY,  
24 AND MUNICIPAL TAXATION.

25 **Article - Tax - General**

26 11-102.

27 (b) (1) A county, municipal corporation, special taxing district, or other  
28 political subdivision of the State may not impose any retail sales or use tax except:

29 (i) a sales tax or use tax that was in effect on January 1, 1971;

30 (ii) a tax on the sale or use of:

31 1. fuels;

32 2. utilities;

33 3. space rentals; or



1 (1) The projects or improvements have been approved by the Board of  
2 Public Works; and

3 (2) Contracts have been executed on or after July 1, 1971 for the projects  
4 or improvements.

5 [(c) (1) In this subsection, "local debt for school construction" includes any  
6 debt incurred as the result of money made available to a county under a bond issue  
7 that obligates the credit of the State.

8 (2) Except for general public school construction loan debt outstanding  
9 or obligated as of June 30, 1967 for which repayment by a county is no longer  
10 required, the State shall reimburse each county for the full costs of principal and  
11 interest payments on any local debt for school construction outstanding or obligated  
12 as of June 30, 1967.

13 (d) The State shall pay all of the annual cost of debt service on school  
14 construction debt incurred by each county that was outstanding or obligated on or  
15 after June 30, 1967 for contracts let before June 30, 1967.]

16 [(e) (D) (1) The Board of Public Works may adopt [rules, regulations, and  
17 procedures] REGULATIONS for the administration of the programs provided for [by  
18 subsections (b) and (d) of] IN this section.

19 (2) The [rules, regulations, and procedures] REGULATIONS adopted by  
20 the Board of Public Works may contain requirements for:

21 (i) The development and submission of long range plans;

22 (ii) The submission of annual plans and plans for specific projects;

23 (iii) The submission of other data or information that is relevant to  
24 school construction or capital improvement;

25 (iv) The approval of sites, plans, and specifications for the  
26 construction of new school buildings or the improvement of existing buildings;

27 (v) Site improvements;

28 (vi) Competitive bidding;

29 (vii) The hiring of personnel in connection with school construction  
30 or capital improvements;

31 (viii) The actual construction of school buildings or their  
32 improvements;

33 (ix) The relative roles of different State and local governmental  
34 agencies in the planning and construction of school buildings or school capital  
35 improvements; [and]

1 (x) School construction and capital improvements necessary or  
2 appropriate for the proper implementation of this section;

3 (XI) AT THE RECOMMENDATION OF THE INTERAGENCY  
4 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL CONSTRUCTION  
5 PROGRAMS;

6 (XII) DEVELOPMENT OF COOPERATIVE ARRANGEMENTS THAT  
7 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL SYSTEMS;

8 (XIII) THE SELECTION OF ARCHITECTS AND ENGINEERS BY SCHOOL  
9 SYSTEMS;

10 (XIV) THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS; AND

11 (XV) METHOD OF PAYMENTS MADE BY THE STATE UNDER THE  
12 PUBLIC SCHOOL CONSTRUCTION PROGRAM.

13 (3) THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS  
14 SHALL CONTAIN PROVISIONS:

15 (I) ESTABLISHING A STATE AND LOCAL COST-SHARE FORMULA  
16 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING THE  
17 FORMULAS;

18 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT  
19 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL IMPROVEMENT  
20 PROGRAMS;

21 (III) PROVIDING A METHOD FOR ESTABLISHING A MAXIMUM STATE  
22 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

23 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF THE  
24 STATE FINANCE AND PROCUREMENT ARTICLE;

25 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT PROCEDURES  
26 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE STATE  
27 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

28 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF DECISIONS BY  
29 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

30 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,  
31 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE PLANS;  
32 AND

33 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO WITHHOLD  
34 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION AGENCY  
35 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS  
36 PARAGRAPH.

1 (4) In adopting any of these requirements, the State Board and the  
2 Board of Public Works shall provide for the maximum exercise of initiative by school  
3 personnel in each county to insure that the school buildings and improvements meet  
4 both the needs of the local communities and the rules and regulations necessary to  
5 insure the proper operation of this section and the prudent expenditure of State  
6 funds.

7 [(f)] (E) [(1)] The Board of Public Works shall develop the rules, regulations,  
8 and procedures authorized by this section in consultation with representatives of the  
9 county boards and the county governing bodies.

10 [(2)] Before the adoption, amendment, or repeal of any rule, regulation, or  
11 procedure under this section, the Board of Public Works shall give notice of its  
12 intended action to the county boards and to the county governing bodies.

13 (3) The Board of Public Works shall permit each county board and  
14 county governing body to submit its views with respect to the intended action.]

15 [(g)] (F) The [rules, regulations, and procedures] REGULATIONS AND  
16 PROCEDURES of the Board of Public Works adopted under this section and their  
17 promulgation are exempt from [ §§ 10-101 through 10-305 of the State Government  
18 Article and] § 8-127(b) of the State Finance and Procurement Article of the Code.

19 [(h)] (G) (1) With respect to public school construction or public school  
20 capital improvements, including sites for school buildings, the authority,  
21 responsibilities, powers, and duties of the following are subject to the [rules,  
22 regulations, and procedures] REGULATIONS adopted by the Board of Public Works  
23 under this section:

24 (i) The State Board;

25 (ii) The State Superintendent;

26 (iii) The county governments;

27 (iv) The county boards; and

28 (v) All other State or local governmental agencies under this  
29 article.

30 (2) If, as to public school construction or public school capital  
31 improvements, there is any conflict between the [rules, regulations, and procedures]  
32 REGULATIONS AND PROCEDURES of the Board of Public Works and the authority,  
33 responsibilities, powers, and duties of the individuals and agencies specified in  
34 paragraph (1) of this subsection, the [rules, regulations, and procedures]  
35 REGULATIONS AND PROCEDURES of the Board of Public Works shall prevail.

36 [(i)] (H) The obligation of the State to pay the costs of public school  
37 construction and public school capital improvements extends only to those projects or

1 parts of projects that comply with the [rules, regulations, and procedures]  
2 REGULATIONS AND PROCEDURES of the Board of Public Works.

3 [(j)] (I) (1) This subsection does not apply to the proceeds from the sale,  
4 lease, or disposition of public school buildings constructed under contracts executed  
5 before February 1, 1971.

6 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS ARTICLE  
7 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO IMPLEMENT §  
8 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION that  
9 the proceeds received by a county from the sale, lease, or disposal of any public school  
10 building shall be used solely as part of the State funding of the construction of future  
11 public school buildings in the county in which the sale, lease, or disposal occurred, if  
12 the public school building was:

13 (i) Constructed under a contract executed on or after February 1,  
14 1971; and

15 (ii) Paid for primarily with State funds under this section.

16 (3) The part of the proceeds from the sale, lease, or disposal of a public  
17 school building that fairly represents the appraised value of land and that part of the  
18 cost of the public school building that was funded by the county shall remain as the  
19 funds of the county.

20 [(k)] (J) (1) Whether by budget bill or supplementary appropriation bill, all  
21 money appropriated to carry out the purposes of this section is a separate fund that  
22 shall be administered by the State Comptroller in accordance with the [rules and]  
23 regulations adopted by the Board of Public Works.

24 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
25 PARAGRAPH, NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF THE  
26 ANNOTATED CODE, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT BEEN  
27 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT SHALL  
28 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

29 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL OF THE  
30 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER SUBPARAGRAPH  
31 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES THAT  
32 UNUSUAL CIRCUMSTANCES EXIST.

33 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR PREVIOUSLY  
34 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED UNDER  
35 PARAGRAPH (1) OF THIS SUBSECTION.

36 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE  
37 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN  
38 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE  
39 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS REQUIRED  
40 UNDER THIS SUBSECTION.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
2 read as follows:

3 **Article - Education**

4 5-301.

5 (a) IN THIS SUBTITLE, "INTERAGENCY COMMITTEE" MEANS THE  
6 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION ESTABLISHED UNDER §  
7 5-302 OF THIS SUBTITLE.

8 (B) (1) For the purposes of this section other than subsection (c), the Board  
9 of Public Works shall define by regulation what constitutes an [approved] ELIGIBLE  
10 AND INELIGIBLE public school construction or capital improvement cost.

11 (2) The cost of acquiring land may not be considered a construction or  
12 capital improvement cost and may not be paid by the State.

13 [(b)] (C) The State shall pay the costs in excess of available federal funds of  
14 [all] THE STATE SHARE OF public school construction projects and public school  
15 capital improvements in each county if:

16 (1) The projects or improvements have been approved by the Board of  
17 Public Works; and

18 (2) Contracts have been executed on or after July 1, 1971 for the projects  
19 or improvements.

20 [(c)] (1) In this subsection, "local debt for school construction" includes any  
21 debt incurred as the result of money made available to a county under a bond issue  
22 that obligates the credit of the State.

23 (2) Except for general public school construction loan debt outstanding  
24 or obligated as of June 30, 1967 for which repayment by a county is no longer  
25 required, the State shall reimburse each county for the full costs of principal and  
26 interest payments on any local debt for school construction outstanding or obligated  
27 as of June 30, 1967.

28 (d) The State shall pay all of the annual cost of debt service on school  
29 construction debt incurred by each county that was outstanding or obligated on or  
30 after June 30, 1967 for contracts let before June 30, 1967.]

31 [(e)] (D) (1) The Board of Public Works may adopt [rules, regulations, and  
32 procedures] REGULATIONS for the administration of the programs provided for [by  
33 subsections (b) and (d) of] IN this section.

34 (2) The [rules, regulations, and procedures] REGULATIONS adopted by  
35 the Board of Public Works may contain requirements for:

36 (i) The development and submission of long range plans;

1 (ii) The submission of annual plans and plans for specific projects;

2 (iii) The submission of other data or information that is relevant to  
3 school construction or capital improvement;

4 (iv) The approval of sites, plans, and specifications for the  
5 construction of new school buildings or the improvement of existing buildings;

6 (v) Site improvements;

7 (vi) Competitive bidding;

8 (vii) The hiring of personnel in connection with school construction  
9 or capital improvements;

10 (viii) The actual construction of school buildings or their  
11 improvements;

12 (ix) The relative roles of different State and local governmental  
13 agencies in the planning and construction of school buildings or school capital  
14 improvements; [and]

15 (x) School construction and capital improvements necessary or  
16 appropriate for the proper implementation of this section;

17 (XI) AT THE RECOMMENDATION OF THE INTERAGENCY  
18 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL CONSTRUCTION  
19 PROGRAMS;

20 (XII) DEVELOPMENT OF COOPERATIVE ARRANGEMENTS THAT  
21 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL SYSTEMS;

22 (XIII) THE SELECTION OF ARCHITECTS AND ENGINEERS BY SCHOOL  
23 SYSTEMS;

24 (XIV) THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS; AND

25 (XV) METHOD OF PAYMENTS MADE BY THE STATE UNDER THE  
26 PUBLIC SCHOOL CONSTRUCTION PROGRAM.

27 (3) THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS  
28 SHALL CONTAIN PROVISIONS:

29 (I) ESTABLISHING A STATE AND LOCAL COST-SHARE FORMULA  
30 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING THE  
31 FORMULAS;

32 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT  
33 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL IMPROVEMENT  
34 PROGRAMS;

1 (III) PROVIDING A METHOD FOR ESTABLISHING A MAXIMUM STATE  
2 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

3 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF THE  
4 STATE FINANCE AND PROCUREMENT ARTICLE;

5 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT PROCEDURES  
6 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE STATE  
7 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

8 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF DECISIONS BY  
9 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

10 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,  
11 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE PLANS;  
12 AND

13 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO WITHHOLD  
14 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION AGENCY  
15 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS  
16 PARAGRAPH.

17 (4) In adopting any of these requirements, the State Board and the  
18 Board of Public Works shall provide for the maximum exercise of initiative by school  
19 personnel in each county to insure that the school buildings and improvements meet  
20 both the needs of the local communities and the rules and regulations necessary to  
21 insure the proper operation of this section and the prudent expenditure of State  
22 funds.

23 [(f)] (E) [(1)] The Board of Public Works shall develop the rules, regulations,  
24 and procedures authorized by this section in consultation with representatives of the  
25 county boards and the county governing bodies.

26 [(2)] Before the adoption, amendment, or repeal of any rule, regulation, or  
27 procedure under this section, the Board of Public Works shall give notice of its  
28 intended action to the county boards and to the county governing bodies.

29 (3) The Board of Public Works shall permit each county board and  
30 county governing body to submit its views with respect to the intended action.]

31 [(g)] (F) The [rules, regulations, and procedures] REGULATIONS AND  
32 PROCEDURES of the Board of Public Works adopted under this section and their  
33 promulgation are exempt from [ §§ 10-101 through 10-305 of the State Government  
34 Article and] § 8-127(b) of the State Finance and Procurement Article of the Code.

35 [(h)] (G) (1) With respect to public school construction or public school  
36 capital improvements, including sites for school buildings, the authority,  
37 responsibilities, powers, and duties of the following are subject to the [rules,  
38 regulations, and procedures] REGULATIONS adopted by the Board of Public Works  
39 under this section:

- 1 (i) The State Board;
- 2 (ii) The State Superintendent;
- 3 (iii) The county governments;
- 4 (iv) The county boards; and
- 5 (v) All other State or local governmental agencies under this
- 6 article.

7 (2) If, as to public school construction or public school capital  
8 improvements, there is any conflict between the [rules, regulations, and procedures]  
9 REGULATIONS AND PROCEDURES of the Board of Public Works and the authority,  
10 responsibilities, powers, and duties of the individuals and agencies specified in  
11 paragraph (1) of this subsection, the[ rules, regulations, and procedures]  
12 REGULATIONS AND PROCEDURES of the Board of Public Works shall prevail.

13 [(i)] (H) The obligation of the State to pay the costs of public school  
14 construction and public school capital improvements extends only to those projects or  
15 parts of projects that comply with the [rules, regulations, and procedures]  
16 REGULATIONS AND PROCEDURES of the Board of Public Works.

17 [(j)] (I) (1) This subsection does not apply to the proceeds from the sale,  
18 lease, or disposition of public school buildings constructed under contracts executed  
19 before February 1, 1971.

20 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS ARTICLE  
21 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO IMPLEMENT §  
22 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION that  
23 the proceeds received by a county from the sale, lease, or disposal of any public school  
24 building shall be used solely as part of the State funding of the construction of future  
25 public school buildings in the county in which the sale, lease, or disposal occurred, if  
26 the public school building was:

- 27 (i) Constructed under a contract executed on or after February 1,  
28 1971; and
- 29 (ii) Paid for primarily with State funds under this section.

30 (3) The part of the proceeds from the sale, lease, or disposal of a public  
31 school building that fairly represents the appraised value of land and that part of the  
32 cost of the public school building that was funded by the county shall remain as the  
33 funds of the county.

34 [(k)] (J) (1) Whether by budget bill or supplementary appropriation bill, all  
35 money appropriated to carry out the purposes of this section is a separate fund that  
36 shall be administered by the State Comptroller in accordance with the [rules and]  
37 regulations adopted by the Board of Public Works.

1 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
 2 PARAGRAPH, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT BEEN  
 3 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT SHALL  
 4 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

5 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL OF THE  
 6 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER SUBPARAGRAPH  
 7 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES THAT  
 8 UNUSUAL CIRCUMSTANCES EXIST.

9 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR PREVIOUSLY  
 10 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED UNDER  
 11 PARAGRAPH (1) OF THIS SUBSECTION.

12 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE  
 13 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN  
 14 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE  
 15 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS REQUIRED  
 16 UNDER THIS SUBSECTION.

17 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 18 read as follows:

19 **Article - Education**

20 5-206.

21 (f) In fiscal year [2004] 2006 and in each fiscal year thereafter, the State shall  
 22 distribute grants to county boards under the Aging Schools Program administered by  
 23 the Interagency Committee on School Construction in the following amounts:

24	(1)	Allegany County .....	[\$355,000] \$166,000
25	(2)	Anne Arundel County .....	[\$570,000] \$859,000
26	(3)	Baltimore City .....	[\$1,635,000] \$2,356,000
27	(4)	Baltimore County.....	[\$2,940,000] \$1,484,000
28	(5)	Calvert County .....	\$65,000
29	(6)	Caroline County .....	\$85,000
30	(7)	Carroll County .....	[\$385,000] \$233,000
31	(8)	Cecil County .....	[\$355,000] \$163,000
32	(9)	Charles County .....	[\$65,000] \$85,000
33	(10)	Dorchester County .....	\$65,000

1	(11)	Frederick County .....	[\$85,000] \$310,000
2	(12)	Garrett County .....	[\$85,000] \$65,000
3	(13)	Harford County .....	[\$400,000] \$369,000
4	(14)	Howard County .....	[\$65,000] \$149,000
5	(15)	Kent County .....	\$65,000
6	(16)	Montgomery County .....	[\$1,170,000] \$1,023,000
7	(17)	Prince George's County .....	[\$970,000] \$2,053,000
8	(18)	Queen Anne's County .....	\$85,000
9	(19)	St. Mary's County .....	\$85,000
10	(20)	Somerset County .....	\$65,000
11	(21)	Talbot County .....	[\$155,000] \$65,000
12	(22)	Washington County .....	[\$200,000] \$229,000
13	(23)	Wicomico County .....	[\$355,000] \$181,000
14	(24)	Worcester County .....	\$65,000

15 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
16 read as follows:

17 **Chapter 704 of the Acts of 1998, as amended by Chapter 420 of the Acts of**  
18 **2001 and Chapter 289 of the Acts of 2002**

19 SECTION 3. AND BE IT FURTHER ENACTED, That, UNLESS REGULATIONS  
20 ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE STATE TO PROVIDE A  
21 LARGER PERCENTAGE, for fiscal years 1999 through 2007, in each year, the State  
22 shall provide 75 percent of the eligible costs for up to \$35 million in public school  
23 construction costs in Prince George's County. At least \$20 million of the State funds  
24 must be spent each year on neighborhood school projects. For fiscal years 1999  
25 through 2003, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS  
26 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above \$35  
27 million, the State shall provide 60 percent of the eligible costs. For fiscal years 2004  
28 through 2007, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS  
29 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above \$35  
30 million, the State shall provide 65 percent of the eligible costs. Neighborhood school  
31 projects shall be identified by the Interagency Committee on Public School  
32 Construction and shall include new public schools and additions or improvements to  
33 existing public schools which serve students reassigned to their local communities

1 based upon the Community Schools Education Plan developed by the Prince George's  
2 County Board of Education.

3 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
4 read as follows:

5 **Chapter 280 of the Acts of 2001, as amended by Chapter 288 of the Acts of**  
6 **2002 and Chapter 388 of the Acts of 2003**

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
8 MARYLAND, That, notwithstanding any other provision of law, UNLESS  
9 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE STATE TO  
10 PROVIDE A LARGER PERCENTAGE, for fiscal years 2002 through 2005, in each year,  
11 the State shall provide 90 percent of the eligible costs for up to and including \$20  
12 million in public school construction projects in Baltimore City, and for funding above  
13 \$20 million, the State shall provide 75 percent of the eligible costs.

14 SECTION 7. AND BE IT FURTHER ENACTED, That, on or before July 1,  
15 2005, at the request of the Interagency Committee on School Construction, the Board  
16 of Public Works shall adopt regulations, in accordance with Title 10, Subtitle 1 of the  
17 State Government Article, to implement the provisions of this Act and that:

18 (1) reduce the State rated classroom capacity for elementary grades 1 to 5 to  
19 23 students per classroom;

20 (2) establish a planning priority process to evaluate requests for State  
21 planning approval in the annual Capital Improvement Programs of local education  
22 agencies;

23 (3) develop design guidelines and provide financial incentives, such as  
24 supplemental design funds or additional construction funding, for school construction  
25 projects that use innovative building techniques or include energy conservation,  
26 sustainable building, or green architecture design features; and

27 (4) establish a new State and local cost-share formula for each county for use  
28 beginning in fiscal year 2006, consistent with the recommendations contained in the  
29 Report of the Task Force to Study Public School Facilities, issued in February 2004.

30 SECTION 8. AND BE IT FURTHER ENACTED, That the State Department  
31 of Education shall adopt regulations that provide for periodic surveys of the condition  
32 of public school facilities in Maryland at least every 4 years. The surveys should be  
33 similar to the Facility Assessment Survey that the State Department conducted, at  
34 the direction of the Task Force to Study Public School Facilities, in 2003. The State  
35 shall provide funds necessary to conduct the survey.

36 SECTION 9. AND BE IT FURTHER ENACTED, That it is the intent of the  
37 General Assembly that the Board of Public Works and the Interagency Committee on  
38 School Construction establish an emergency repair fund to finance renovations and  
39 improvements to public schools that resolve deficiencies that present an immediate  
40 hazard to the health or safety of the students or staff of the schools, as certified by

1 local education agencies and approved by the Interagency Committee on School  
2 Construction. By July 1, 2004, the Board of Public Works and the Interagency  
3 Committee on School Construction shall develop procedures for use of the emergency  
4 repair fund to resolve deficiencies that present an immediate health or safety hazard  
5 and to resolve deficiencies that, if not corrected, may present an immediate health or  
6 safety hazard. It is the intent of the General Assembly that at least \$2 million be  
7 provided for the emergency repair fund in fiscal year 2005.

8 SECTION 10. AND BE IT FURTHER ENACTED, That it is the intent of the  
9 Governor and the General Assembly that the State should pursue a goal of fully  
10 funding by fiscal 2013 a minimum of \$3.85 billion in school facility needs, as  
11 identified by the 2003 School Facility Assessment Survey of minimum standards  
12 conducted at the request of the Task Force to Study Public School Facilities.  
13 Achieving this goal in light of the fiscal outlook will be challenging and will require a  
14 significant commitment by the State to provide approximately \$2 billion and by local  
15 governments to provide approximately \$1.85 billion over the next 8 years for school  
16 construction projects. It is recognized that this amount does not include many projects  
17 that local education agencies believe are necessary, but it does include basic,  
18 minimum facility standards for all public schools in Maryland.

19 SECTION 11. AND BE IT FURTHER ENACTED, That the Public School  
20 Construction Program shall provide assistance to Baltimore City, counties, and local  
21 education agencies in using alternative financing mechanisms to fund school  
22 construction, when appropriate. The Public School Construction Program shall  
23 prepare a guide for Baltimore City, counties, and local education agencies to use when  
24 evaluating alternative financing proposals. The guide should include model contracts,  
25 model solicitations, and references to other documents which provide information on  
26 alternative financing. The Public School Construction Program should help Baltimore  
27 City, counties, and local education agencies identify when an alternative financing  
28 mechanism may be appropriate for a particular project and to develop the  
29 procurement, contractual, and technical instruments that will meet State and local  
30 procurement requirements and bring the project to a successful conclusion. The  
31 Public School Construction Program shall report to the Board of Public Works,  
32 Baltimore City, the county governments, local education agencies, and the General  
33 Assembly on or before September 1 of each year, in accordance with § 2-1246 of the  
34 State Government Article, on the use of alternative financing mechanisms to finance  
35 public school construction in Maryland in the prior fiscal year.

36 SECTION 12. AND BE IT FURTHER ENACTED, That Section 3 of this Act  
37 shall take effect July 1, 2008.

38 SECTION 13. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of  
39 this Act shall take effect July 1, 2005. Section 2 of this Act shall remain effective for  
40 a period of 3 years and, at the end of June 30, 2008, with no further action required by  
41 the General Assembly, Section 2 of this Act shall be abrogated and of no further force  
42 and effect.

43 SECTION 14. AND BE IT FURTHER ENACTED, That, except as provided in  
44 Sections 12 and 13 of this Act, this Act shall take effect July 1, 2004.

